

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In the Matter of)

Calling Party Pays Service Option)
in the Commercial Mobile Radio Services)

WT Docket No. 97-207

**REPLY COMMENTS OF THE
PERSONAL COMMUNICATIONS INDUSTRY ASSOCIATION**

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The Personal Communications Industry Association ("PCIA")¹ hereby respectfully submits its reply comments in response to the Notice of Inquiry in the above-captioned proceeding.² As detailed below, the record demonstrates the public interest benefits of facilitating a nationwide calling party pays ("CPP") service and the need to remove the barriers currently limiting the widespread deployment of this service. To this end, PCIA urges the Commission to adopt a nationwide policy promoting CPP and to allow this service to develop consistent with marketplace demands.

¹ PCIA is the international trade association created to represent the interests of both the commercial and the private mobile radio service communications industries. PCIA's Federation of Councils includes: the Paging and Narrowband PCS Alliance, the Broadband PCS Alliance, the Site Owners and Managers Association, the Association of Wireless Communications Engineers and Technicians, the Private Systems Users Alliance, and the Mobile Wireless Communications Alliance. In addition, as the FCC-appointed frequency coordinator for the 450-512 MHz bands in the Business Radio Service, the 800 and 900 MHz Business Pools, the 800 MHz General Category frequencies for Business Eligibles and conventional SMR systems, and the 929 MHz paging frequencies, PCIA represents and serves the interests of tens of thousands of licensees.

² *Calling Party Pays Service Option in the Commercial Mobile Radio Services*, WT Docket No. 97-207, FCC No. 97-341 (rel. Oct. 23, 1997).

I. INTRODUCTION AND SUMMARY

In its comments, PCIA urged the Commission to establish a national policy promoting CPP service consistent with its authority in Sections 332(c) and 201 of the Act to regulate interconnected commercial mobile radio services. Pursuant to such a policy, the Commission should ensure that local exchange carriers ("LECs"), commercial mobile radio service ("CMRS") providers and equipment manufacturers work to address CPP implementation issues, particularly: (1) inter-carrier data transfer and signaling procedures; and (2) customer notification practices. In PCIA's view, this nationwide policy will help to overcome the impediments to CPP service, such as the lack of uniform mechanisms for billing and collection, technical implementation and consumer notification practices.

There is general consensus in the record regarding both the public benefits of a calling party pays service and the regulatory and practical barriers that limit nationwide implementation. To this end, the record supports adoption of a federal policy that: (1) underscores the substantial federal interest in developing a nationwide CPP service; (2) clarifies that CPP is a commercial mobile radio service that may be offered on a voluntary basis; and (3) requires industry members to work closely to resolve the technical and billing issues critical to the deployment of CPP. By taking such an approach, PCIA believes that the Commission may increase consumer acceptance of wireless technology as a viable substitute for traditional wireline services and promote more efficient use of the radio spectrum by increasing wireless network utilization.

II. AN OVERWHELMING MAJORITY OF COMMENTERS AGREE THAT CPP IS IN THE PUBLIC INTEREST AND SHOULD DEVELOP CONSISTENT WITH MARKETPLACE DEMANDS

Most commenters agree with PCIA that facilitating deployment of CPP is in the public interest and that widespread implementation of this service will result in numerous public benefits. For example, AirTouch and others maintain that CPP will promote increased wireless usage, among other reasons, by allowing wireless subscribers to control calls and removing the incentives for subscribers to discourage incoming calls.³ In addition, numerous wireless carriers emphasize that broad availability of CPP may encourage wireless offerings to serve as a viable competitive alternative to traditional wireline service as consumers begin to view these services as substitutes.⁴ Many parties also urge the Commission to consider carefully the positive results of widespread CPP service offerings in Europe and other areas as examples of the benefits that could result from CPP availability in the United States.⁵

³ See, e.g., Comments of AirTouch Communications, Inc., WT Docket No. 97-207, at 5-7 (filed Dec. 16, 1997) ("AirTouch Comments"); Comments of Motorola, Inc., WT Docket No. 97-207, at 6 (filed Dec. 16, 1997) ("Motorola Comments"); Comments of Omnipoint Communications, Inc., WT Docket No. 97-207, at 22-23 (filed Dec. 16, 1997) ("Omnipoint Comments").

⁴ See AirTouch Comments at 5-6; Comments of Sprint Spectrum L.P. d/b/a Sprint PCS, WT Docket No. 97-207, at 2-4 (filed Dec. 16, 1997) ("Sprint PCS Comments").

⁵ See, e.g., Sprint PCS Comments at 2-4 ("Most notably, the experience with CPP in Europe demonstrates that [a CPP] service offering greatly enhances the ability of subscribers to use wireless telephony services much as they would use wireline services."); Comments of Vanguard Cellular Systems, Inc., WT Docket No. 97-207, at 6-9 (filed Dec. 16, 1997) ("Vanguard Cellular Comments") (describing increased wireless usage and improved traffic balances between wireless and wireline networks in Israel and Sweden following CPP implementation).

There is wide consensus among most commenters -- including LECs, wireless carriers, and paging providers -- that CPP should be implemented on a voluntary basis.⁶ Indeed, no commenter urged the Commission to require a CMRS provider to offer CPP service to subscribers. As explained by AT&T Wireless, requiring carriers to offer CPP is unnecessary because "the marketplace will ensure that providers respond to customer demand for a CPP service option."⁷ Bell Atlantic echoes this concern, noting that some limited deployment of CPP exists today and that any mandate will invariably impose costs on carriers.⁸ PCIA agrees. Accordingly, the Commission should decline to impose a CPP requirement and instead allow CMRS carriers to develop these services according to consumer demand.

Consistent with this view, the vast majority of commenters agree that market forces should determine the ultimate availability of CPP and the specifics of CPP implementation.⁹ As PCIA advanced in its comments, a market-driven process for CPP deployment is preferable because it "allows *consumers* to drive the choice of whether they want this feature, and, if so,

⁶ See, e.g., Comments of AT&T Wireless Services, Inc., WT Docket No. 97-207, at 1 (filed Dec. 16, 1997) ("AT&T Wireless Comments"); Comments of Bell Atlantic, WT Docket No. 97-207, at 6-9 (filed Dec. 16, 1997) ("Bell Atlantic Comments"); Comments of BellSouth Corporation, WT Docket No. 97-207, at 1-2 (filed Dec. 16, 1997); Comments of the Cellular Telecommunications Industry Association, WT Docket No. 97-207, at 4-6 (filed Dec. 16, 1997) ("CTIA Comments"); Comments of Motorola at 3-4; Comments of the Rural Telecommunications Group, WT Docket No. 97-207, at 4 (filed Dec. 16, 1997); Comments of SBC Communications, Inc., WT Docket No. 97-207, at 5-6 (filed Dec. 16, 1997) ("SBC Comments").

⁷ AT&T Wireless Comments at 3.

⁸ Bell Atlantic Comments at 7.

⁹ See, e.g., AirTouch Comments at 28-29; Bell Atlantic Comments at 6-9; CTIA Comments at 5-6; SBC Comments at 5-6; Comments of the United States Telephone Association, WT Docket No. 97-207, at 4-5 (filed Dec. 16, 1997).

how much they are willing to pay for it.”¹⁰ Further, Bell Atlantic emphasizes that a market-based approach is consistent with Congress’s clear preference for competition in the development of the CMRS marketplace embodied in Section 332 and Commission precedent establishing the role of the marketplace in CMRS development.¹¹

III. THE RECORD UNDERSCORES THE IMPORTANCE OF REMOVING THE PRACTICAL AND REGULATORY BARRIERS TO NATIONWIDE CPP DEPLOYMENT

The record clearly underscores that existing practical and regulatory impediments are a significant barrier to the effective introduction of CPP. For example, Sprint PCS, Vanguard Cellular and other carriers explain that state bans or restrictions on CPP services are a fundamental obstacle to the provision of CPP.¹² Likewise, these and other carriers point to LECs’ refusal to cooperate in the provision of interconnection and billing-related services as an additional barrier to CPP deployment.¹³ Further, GTE explains that the lack of industry standards and other practical implementation issues -- such as billing issues and “leakage” concerns -- must be overcome before CPP can be made widely available.¹⁴

¹⁰ Comments of the Personal Communications Industry Association, WT Docket No. 97-207, at 14 (filed Dec. 16, 1997) (“PCIA Comments”).

¹¹ Bell Atlantic Comments at 6.

¹² See, e.g., CTIA Comments at 12-13; Sprint PCS Comments at 16-17; Vanguard Cellular Comments at 13.

¹³ AirTouch Comments at 19-21; Omnipoint Comments at 17-18; Comments of Source One Wireless II, L.L.C., WT Docket No. 97-207, at 3 (filed Dec. 16, 1997).

¹⁴ See Comments of GTE Service Corporation, WT Docket No. 97-207, at 12-16 (filed Dec. 16, 1997) (“GTE Comments”). In light of such barriers, the Commission must reject arguments that the *status quo* is sufficient to encourage deployment of CPP. See, e.g., SBC
(Continued...)

In addition, there is clear support in the record describing the Commission's broad legal authority to limit regulatory barriers to CPP implementation. For example, numerous commenters assert that the Commission has broad authority to prohibit inconsistent state regulation of CPP services under Section 332(c)(3) of the Act.¹⁵ Sprint PCS also maintains that Section 332(c)(1)(B) gives the Commission authority to establish federal policies regarding LEC-CMRS interconnection and to require LECs to provide CMRS carriers with the connections and billing information necessary to offer CPP.¹⁶ Accordingly, PCIA urges the Commission to use its statutory authority to adopt a nationwide policy promoting the availability of CPP. Such a national policy is necessary to ensure that the Commission and industry segments work together to address existing barriers to CPP deployment.

IV. CPP IS A COMMERCIAL MOBILE RADIO SERVICE SUBJECT TO SECTION 332 OF THE ACT

A. A Number of Parties Agree With PCIA That CPP is CMRS and Not Merely a Billing Service

In its comments, PCIA noted that the Commission's authority to adopt a nationwide policy promoting calling party pays flows from the conclusion that CPP is a commercial

(...Continued)

Comments at 4-5. Though market forces must dictate the availability and functionality of CPP, the existence of artificial barriers to CPP -- such as state regulatory policies or the lack of cooperation from ILECs in providing interconnection for CPP service -- underscores the need for FCC action. In turn, such action will create a marketplace for CPP service where industry-wide CPP developments can succeed.

¹⁵ See, e.g., Bell Atlantic Comments at 4-6; GTE Comments at 19-21.

¹⁶ Sprint PCS Comments at 10, 12-14; see also Motorola Comments at 9-12.

mobile radio service as defined by the Communications Act.¹⁷ Specifically, PCIA explained that CPP is a commercial mobile radio service because it: (1) is radio communications between mobile and land stations; (2) is provided to the public for profit; and (3) relies extensively on LEC-CMRS interconnection for both call completion and the exchange of customer data.¹⁸

Numerous commenters agree with PCIA and recognize that CPP is a commercial mobile radio service. GTE explains that CPP is CMRS “because the principal service that is being provided and billed for is completing a call from either a mobile or land station to a CMRS subscriber using a CMRS network.”¹⁹ To this end, GTE urges the Commission to establish that CPP is a commercial mobile radio service in order to delineate the proper boundary between federal and state regulatory authority.²⁰ Similarly, other commenters endorse the premise that CPP is CMRS and subject to the Commission’s jurisdiction.²¹

PCIA strongly disagrees with the assertion of U S West and other LECs that CPP is merely a billing and collection option, rather than a telecommunications service.²² As PCIA explained, CPP is more than billing and collection since “the bulk of calling party pays

¹⁷ PCIA Comments at 3.

¹⁸ *Id.* at 4.

¹⁹ GTE Comments at 6.

²⁰ *Id.* at 5-7.

²¹ *See, e.g.*, AT&T Wireless Comments at 3-6, Comments of Sprint Corporation, WT Docket No. 97-207, at 2 (filed Dec. 16, 1997); Sprint PCS Comments at 10-11.

²² *See e.g.*, Comments of U S West, Inc., WT Docket No. 97-207, at 1-3 (noting that “CPP is a billing option -- nothing more”) (filed Dec. 16, 1997).

involves establishing necessary interconnection agreements and the transfer of information between interconnecting LECs and CMRS providers.”²³ Along similar lines, as GTE notes, “[t]he fact that the calling party is being billed for the call does not affect the nature of the call itself nor whether the call meets the CMRS definition.”²⁴ GTE further reasons that, as in the case with interexchange calls billed by a local carrier, the Commission “has never classified a service based on how the service is billed.”²⁵ Accordingly, the Commission should conclude that CPP is CMRS and not a billing and collection practice.

B. The *Arizona* Decision Does Not Preclude The FCC From Taking Action Concerning CPP

Further, many parties agree with PCIA that the Commission’s *Arizona* decision²⁶ does not determine that CPP is merely a billing issue and may be wholly regulated by the states.²⁷ As Motorola explains, the Commission’s statements made in the *Arizona* decision are not determinative because they were not “based on a reasoned analysis of whether state regulation of the CPP service option constitutes regulation of CMRS rates or entry.”²⁸ Further, PCIA agrees with Motorola in urging the Commission to overrule the *Arizona* decision, if the agency

²³ PCIA Comments at 9.

²⁴ GTE Comments at 6.

²⁵ *Id.* at 7.

²⁶ See Petition of Arizona Corporation Commission to Extend State Authority Over Rate and Entry Regulation of All Commercial Mobile Radio Services, 10 FCC Rcd 7824 (1995) (Report and Order and Order on Reconsideration).

²⁷ See, e.g., CTIA Comments at 12-14; GTE Comments at 18-21; Motorola Comments at 14-15; Sprint PCS Comments at 19; Vanguard Cellular Comments at 16.

²⁸ Motorola Comments at 14.

were to read the decision to give states exclusive authority to regulate all aspects of CPP.²⁹

PCIA therefore maintains that the *Arizona* decision does not limit the Commission's ability to exercise its authority under the Act to establish a national policy concerning CPP.

C. LECs are Required To Interconnect With CMRS Providers For The Purpose of Offering CPP Service to End-Users

In its comments, PCIA noted that LECs have an obligation to interconnect with CMRS carriers under the Communications Act. In particular, it explained that this obligation flows from the Commission's determination in the *CMRS Second Report and Order* and its implementation of the 1996 Act's local competition provisions.³⁰

The Commission should clarify in this proceeding that CPP service is an interconnection matter and as such may be regulated under Section 332(c)(1)(B) of the Act. As stated previously, contrary to the claims of several LECs that argue CPP is a billing matter outside the scope of the Commission's jurisdiction,³¹ PCIA and other parties have demonstrated that CPP is a commercial mobile radio service, which includes billing and collection as one component. As such, the Commission may regulate CPP as it would other LEC-CMRS interconnection issues, and LECs are required to interconnect with CMRS carriers for the purpose of offering CPP service.

²⁹ *Id.* at 14-15.

³⁰ PCIA Comments at 6-7.

³¹ *See supra* pp. 7-8.

V. THE EXISTING RECIPROCAL COMPENSATION FRAMEWORK IS NOT A PRACTICAL SUBSTITUTE FOR CPP

PCIA agrees with AirTouch and Omnipoint that the Commission must recognize that the reciprocal compensation framework under the Act is not a practical substitute for CPP services.³² Unlike the charges related to CPP, reciprocal compensation reimburses a carrier for the additional costs it incurs in transporting and terminating a call on its network. Accordingly, reciprocal compensation is inadequate to address CPP because it does not include many of the costs inherent in providing the CPP service. For example, the reciprocal compensation rate would not include most of the carrier's costs for deploying, marketing and billing CPP service, and any profit.³³ Indeed, the disparity between most reciprocal compensation rates (many of which currently range from \$0.005 to \$0.01 per minute) and most CMRS rates illustrates that the reciprocal rate would not fully compensate the CMRS carrier for providing CPP. Therefore, the Commission should not view reciprocal compensation as a viable option to CPP.

³² AirTouch Comments at 4; Omnipoint Comments at 2-3.

³³ Similarly, Bay Springs Telephone Company's argument that CPP would result in double recovery for CMRS providers is misplaced. See Comments of Bay Springs Telephone Company, *et al.*, WT Docket No. 97-207, at 3-5 (filed Dec. 16, 1997). Since reciprocal compensation rates do not recover all costs associated with providing CPP, there is no basis to assume that CPP rates will permit double recovery.

VI. CONCLUSION

The record in this proceeding underscores the compelling need for Commission action to ensure that consumers enjoy the benefits of CPP service. Given the present barriers to such implementation, it is clear that the *status quo* is insufficient to allow CPP service to be rapidly available on a nationwide basis. Thus, PCIA submits that a nationwide policy concerning CPP is necessary to allow CMRS carriers, LECs and state regulators to work toward solutions to CPP deployment. In particular, such a policy would facilitate nationwide, uniform mechanisms for billing and collection, technical implementation, and consumer notification practices.

Respectfully submitted,

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